

**STATE WATER RESOURCES CONTROL BOARD  
BOARD MEETING -- DIVISION OF FINANCIAL ASSISTANCE  
DECEMBER 4, 2007**

**ITEM 3**

**SUBJECT**

CONSIDERATION OF A RESOLUTION APPROVING A STATE REVOLVING FUND (SRF) LOAN TO CHICO URBAN AREA JOINT POWERS FINANCING AUTHORITY (JPFA) FOR CONSTRUCTION OF THE CHICO URBAN AREA NITRATE COMPLIANCE PROJECT (PROJECT); SRF LOAN PROJECT NO. C-06-4111-220

**DISCUSSION**

In the late 1970s, the Department of Water Resources (DWR), in coordination with Butte County (County), performed an assessment of nitrate contamination in private wells in the Chico urban area, located in the County and the City of Chico (City). The DWR study concluded that several areas of high nitrate levels existed, and that septic tanks were a major source of nitrate contamination in the shallow aquifer beneath the Chico urban area. A separate study conducted in 1994 by Dames & Moore confirmed the conclusion of the DWR study.

To protect groundwater quality, the Central Valley Regional Water Quality Control Board (Regional Water Board) adopted Prohibition Order No. 90-126 on April 27, 1990, and revised the Water Quality Control Plan of the Sacramento River Basin 5A by adding a prohibition on waste discharges from individual disposal systems in the Chico urban area. This Prohibition Order affects approximately 30,000 residents on 10,000 parcels, and represents nearly 12,000 dwelling units in the Chico urban area.

In response to the Regional Water Board's order, the County and Chico Redevelopment Agency (Agency) entered into a Joint Exercise of Powers Agreement creating the JPFA, effective June 30, 2005, to finance construction of sewer facilities and an improvement project (proposed Project). On August 29, 2007, JPFA entered into a Public Improvements Agreement (Agreement) with the City to delegate to the City the construction, operation, and maintenance of the proposed Project. Under the agreement, the JPFA will transfer ownership of the constructed facilities and compliance with the SRF Loan Program requirements for the operational life of the Project to the City.

Based on a study of residential dwelling units per acre and other hydrologic factors affecting groundwater contamination, the JPFA in coordination with the Regional Water Board identified approximately 5,634 dwelling units out of the 12,000 units to be connected to the City's existing sewer collection system. These areas are located in the City's northern area (Lassen Avenue corridor), central area (Chico-Vecino Avenues), and southern area (Chapman-Mulberry District). These dwelling units include single-family homes, apartment complexes, and mobile park homes that currently have separate and/or combined septic tanks. The JPFA's Project Report estimates that diverting these dischargers to the City's existing sewer system for treatment will reduce approximately 90 tons per year of nitrates that could potentially contaminate groundwater quality.

The JPFA is seeking a local match SRF loan for a no-interest loan from the State Water Resources Control Board (State Water Board) to construct the proposed Project. Pursuant to

Subsection 13478 of Chapter 6.5 of Division 7 of the Water Code, the State Water Board may enter into agreements with, and accept state match funds from local agencies in return for no-interest SRF loans.

The JPFA proposes to construct sewer facilities and improvements over a 10-year construction period as presented in the table below. To minimize construction and fiscal impacts to the community, the proposed Project will be constructed in six phases as follows:

<b>Project Area</b>	<b>Location</b>	<b>Units</b>	<b>Const. Period</b>
Phase 1 (Project 1N)	North of Lindo Channel, East Lassen Avenue area	1164	2 yrs.
Phase 2 (Project 2N)	North of Lindo Channel, East Avenue area	1364	2 yrs.
Phase 3 (Project 3N)	North of Lindo Channel, Esplanade area	432	1 yr.
Phase 4 (Project 1S)	South of Lindo Channel, Humboldt Road area	804	2 yrs.
Phase 5 (Project 2S)	South of Lindo Channel, East 5 <sup>th</sup> Avenue area	790	2 yrs.
Phase 6 (Project 3S)	South of Lindo Channel, Warner Street area	1080	1 yr.
	<b>Total</b>	<b>5,634</b>	<b>10 yrs</b>

The construction cost of the Project is estimated at \$24.4 million based on the updated application package. Capacity buy-in at the City’s wastewater treatment plant will cost the JPFA an additional \$9.6 million. The total eligible Project cost is estimated at \$38 million. This includes the capacity buy-in cost and allowances for planning, engineering, and construction.

The JPFA will fund the Project’s construction through incremental tax increases collected on parcels served by the proposed Project. Tax increment revenue is the increase in property taxes within a redevelopment project area that result from increases in the project area assessed value that exceeds the value in place at the time the project area was formed. The total projected tax increment revenue to be paid to the JPFA over the life of the proposed loan is estimated at \$58.9 million. The JPFA will invest such revenue strictly in accordance with the investment policy of the City. Collection of the tax increment revenue by the JPFA is authorized under the “Amended and Restated Joint Exercise of Powers Agreement for the Chico Urban Area Joint Powers Financing Authority,” and Resolution No. JPFA 03-06 dedicates the tax increment revenue for repayment of the SRF loan.

Throughout the development of the Revenue Plan, several methods of financing the sewer facilities were considered, including pay-as-you-go funding alternatives, the standard SRF loan program structures, and tax increment bond alternatives. After many years seeking a solution to the Prohibition Order No. 90-126, the SRF Local Match Program was determined to be the most credit worthy financing plan that would provide a secure source of repayment and maximize security for the benefit of the SRF loan program. This option maintains a conservative cushion between the tax increment revenue available to repay the loan and the annual repayment costs.

The JPFA requested in its application that the first SRF Loan repayment be made one year after completion of construction of the last Phase of the Project. The first repayment, therefore, will be 11 years after construction begins on the Project.

Most SRF projects complete construction in approximately two to three years. Repayment of the SRF loans start one year after completion of construction per Section XX of the SRF Policy. Although the SRF Policy does not address the maximum length of construction for an SRF project, the past practice of the SRF loan program with respect to large, multi-phase projects constructed over many years has been to write separate loan agreements for each phase with separate construction completion dates. This results in staggered repayments as each phase completes construction.

The JPFA requested the SRF program delay the start of repayments for Phases 1 through 5 because its financial analysis shows that it is necessary for the JPFA to invest its tax increment revenue to have sufficient funds to repay the SRF loan. Additionally, this repayment schedule would minimize financial impacts to the community. Division staff have analyzed the effect of the JPFA's request to delay the first repayments on Phases 1 through 5 and recommends, in collaboration with the Regional Water Board, that the JPFA's request be granted for the following reasons.

1. The JPFA's request only affects the timing of the repayments, not the amount of funds returned to the SRF. The same amount of funds will be returned to the SRF regardless of whether the first repayments are delayed or not.
2. Delaying repayments on Phases 1 through 5 will reduce the yearly expected repayments by at most about \$1 million in year ten. The SRF program typically approves about \$250 to \$300 million in loan agreements per year. A reduction of \$1 million in one year represents less than one percent of the SRF program's yearly business. And as noted in (1) above, delaying repayments in the earlier years of the loan will result in higher payments in the later years of the loan.

Considering the more than two decades of groundwater contamination associated with this project, the difficulty of the JPFA to identify an alternative funding source, the minimal financial effect of delaying the repayments on Phases 1 through 5, and the JPFA's determination to construct the project and prevent further contamination, Division staff recommend approval of the JPFA's request to delay the first loan repayments on Phase 1 through 5 until all phases of the Project are constructed.

The County prepared an Environmental Impact Report (EIR), which was distributed to the public and circulated through the State Clearinghouse (SCH# 1999102080) for review from February 26, 2001 through April 11, 2001. During the review period the County received four comment letters regarding SRF loan requirements, impacts to cultural resources, air quality and short-term construction impacts, and re-planting of trees and shrubs. The County provided adequate responses to the comments in the Final EIR. The Board of Supervisors for the County of Butte approved the project and certified the Final Environmental Impact Report on September 11, 2001.

A Notice of Determination was filed with the Butte County Clerk and the Governor's Office of Planning and Research on September 27, 2001.

In compliance with the Operating Agreement between USEPA and the State Water Board, a reassessment of environmental conditions in the proposed project area was completed by State Water Board Staff in November 2006, because the EIR is now more than five years old. There

are no new adverse impacts expected to occur in relation to water quality, special status species or habitat, cultural resources, additional impacts to air quality, or growth inducement.

On June 21, 2001, State Water Board staff distributed the EIR to the following federally designated agencies: USEPA; Army Corps of Engineers; U.S. Fish and Wildlife Service; U.S. Department of Agriculture; the Federal Emergency Management Agency; and the USDA Natural Resources Conservation Service. The federal review period expired on August 6, 2001. There were no comments or concerns from federal (cross-cutter) agencies.

On October 22, 2002, the State Historic Preservation Officer concurred with the State Water Board's finding that no historic properties will be affected by the project. Monitoring by an archaeologist approved by the Mechoopda Tribe will be required in designated areas.

State Water Board staff compared the applicant's information to published air quality standards to determine whether a conformity determination is required. No conformity determination is necessary. Therefore, staff submitted its analysis to USEPA for review and comment. No comments were received from USEPA on the staff analysis of air quality impacts.

In accordance with the State Water Board's *Policy for Implementing the State Revolving Fund for Construction of Wastewater Treatment Facilities* (Policy), adopted on February 16, 1995, and amended on July 17, 2007, projects on the adopted priority list need State Water Board approval to receive a SRF Loan. A SRF Loan Commitment can be approved by the State Water Board after the Division of Financial Assistance (Division) has issued the Facilities Plan Approval. On September 21, 2007, the Division approved all documents above by issuing a Facilities Plan Approval (FPA) for the JPFA's Project. The JPFA agreed in writing on September 24, 2007, with the Division's FPA.

The JPFA has certified that the water purveyor, California Service Water Company, is a signatory to the California Urban Water Conservation Council's Memorandum of Understanding (MOU) regarding Urban Water Conservation in California, and the MOU covers at least 75 percent of the water connections within the applicant's Project sewer service area.

The JPFA has provided the Division with a schedule containing Project Milestones. These dates are included in the Division's FPA letter. In accordance with Section IX (J) of the SRF Policy, the Resolution includes the sunset date for the Preliminary Funding Commitment. The JPFA must sign the SRF Loan Agreement by June 1, 2008, or the Preliminary Funding Commitment will expire. The Division staff should have the discretion to approve up to a 90-day extension request for good cause without further action by the State Water Board. Since the Project will be constructed in six phases over ten years, each construction phase will receive an Approval-to-Award (ATA) which states the amount the JPFA would be allowed for reimbursement for that phase. The amount specified in the SRF Loan Agreement will reflect the cumulative total of the ATAs. If the JPFA does not continue to make progress on Project construction in accordance with the approved FPA milestones, or delays construction without prior approval by the Division, the Deputy Director of the Division should have the discretion to reduce the amount of the SRF Preliminary Loan Commitment and/or demand immediate repayment of received SRF Loan amounts including incurred interest.

The JPFA has applied for the full estimated eligible SRF Loan amount of \$38 million for the Project. The JPFA requests a 20-year repayment period, with the first SRF Loan repayment due one year after completion of construction of the last Phase of the Project.

## **POLICY ISSUE**

1. Should the State Water Board approve a SRF Preliminary Loan Commitment for the proposed Project, including a 20-year repayment period, with the first repayment due one year after completion of construction of the entire Project?
2. Should the State Water Board, in accordance with Section IX (J) of the Policy, condition this approval by withdrawing the SRF Preliminary Loan Commitment if the JPFA does not sign the SRF Loan Agreement by June 1, 2008? Should the Division staff have the discretion to approve up to a 90-day extension for good cause without further action by the State Water Board?
3. Should the Deputy Director of the Division have the discretion to reduce the amount of the SRF preliminary loan commitment and/or demand immediate repayment of received SRF loan amounts including incurred interest, if the JPFA does not continue to make progress on Project construction or delays construction without prior approval by the Division?

## FISCAL IMPACT

(as of 8/27/07 (revised))

	SFY 2007-08	SFY 2008-09	SFY 2009-10	SFY 2010-11	SFY 2011-12
Beginning Balance:	\$409,493,441	\$323,318,971	\$312,879,180	\$363,302,182	\$491,812,126
Estimated Repayments	\$188,218,080	\$191,553,957	\$201,553,957	\$211,553,957	\$221,553,957
Debt Service on Revenue Bonds	(\$33,357,579)	(\$31,893,104)	(\$31,758,441)	(\$31,456,429)	(\$30,228,204)
Estimated Capitalization Grants	\$89,080,042	\$60,000,000	\$0	\$0	\$0
State G.O. Bond proceeds (less state admin. match)	\$76,000,000	\$0	\$0	\$0	\$0
Local Match Credits	\$18,197,085	\$14,060,222	\$5,539,832	\$4,166,750	\$4,166,750
Est. SMIF Interest:	\$21,588,476	\$17,000,000	\$12,000,000	\$8,000,000	\$2,000,000
Estimated Disbursements	(\$389,182,544)	(\$208,335,921)	(\$119,412,346)	(\$55,554,334)	(\$29,008,304)
<b>Subtotal</b>	<b>\$380,037,001</b>	<b>\$365,704,125</b>	<b>\$380,802,182</b>	<b>\$500,012,126</b>	<b>\$660,296,325</b>

Ventura County, 4680-110		(\$8,000,000)	(\$8,000,000)	(\$5,000,000)	
Tomales Village CSD, 4633-110	(\$249,030)	(\$27,670)			
Redding, City of, 4971-210	(\$5,000,000)				
Redding, City of, 4971-220	(\$5,400,000)	(\$8,200,000)	(\$4,000,000)		
Union Sanitary District, 5045-110	(\$1,044,000)	(\$1,296,000)			
Colusa, City of, 4438-110	(\$11,625,000)	(\$3,875,000)			
Chico Urban Area Powers Financing Agency, 4111-220*	(\$3,200,000)	(\$3,600,000)	(\$3,700,000)	(\$3,200,000)	(\$4,200,000)
Tahoe City Public Utilities District, 4779-110	(\$1,800,000)	(\$821,654)			
City of Chico, City of, 4997-110	(\$16,700,000)	(\$22,300,000)	(\$1,800,000)		
Inland Empire Utilities Agency, 4900-110	(\$11,700,000)	(\$4,704,621)			

<b>Balance</b>	<b>\$323,318,971</b>	<b>\$312,879,180</b>	<b>\$363,302,182</b>	<b>\$491,812,126</b>	<b>\$656,096,325</b>
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\*Agency is requesting a total of \$38 million for years 2007-08 through 2016-17; \$4.5 million (2012-13), \$3.8 million (2013-14), 3.3 million (2014-15), \$2.6 million (2015-16), and \$5.9 million (2016-17).

### Notes:

- Estimated Repayments include repayments from existing and future loans.
- Estimated disbursements include disbursements remaining on executed Loans and planned disbursements on projects with Preliminary Loan Commitments. Local Match credits are the anticipated funds that will be contributed for Local Match Loans included in "Estimated Disbursement"

## REGIONAL WATER BOARD IMPACT

The Regional Water Board adopted Prohibition Order No. 90-126 on April 27, 1990, and revised the Water Quality Control Plan of the Sacramento River Basin 5A by adding a prohibition on waste discharges from individual disposal systems in the Chico urban area. The proposed Project will provide collection and conveyance of additional domestic wastewater discharges from the Chico urban area for treatment at the City's Wastewater Treatment Plant. Also, the Regional Water Board prescribed NPDES Permit No. CA0079081 (WDRs Order No. R5-2004-0073) for the City's Wastewater Treatment Plant.

## **STAFF RECOMMENDATION**

1. The State Water Board should adopt a resolution approving a SRF Preliminary Loan Commitment of \$38 million for the JPFA's Project with a repayment period of 20 years, with the first repayment due one year after completion of construction of the entire Project.
2. In accordance with the SRF Policy, condition this approval by withdrawing the SRF Preliminary Loan Commitment if the JPFA does not sign the SRF Loan Agreement by June 1, 2008. Division staff should have the discretion to approve up to 90-day extension for good cause without further action by the State Water Board.
3. The Deputy Director of the Division should have the discretion to reduce the amount of the SRF preliminary loan commitment and/or demand immediate repayment of received SRF loan amounts including incurred interest, if the JPFA does not continue to make progress on Project construction or delays construction without prior approval by the Division.

# DRAFT

## STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2007-

CONSIDERATION OF A RESOLUTION APPROVING A PRELIMINARY STATE REVOLVING FUND (SRF) LOAN COMMITMENT TO CHICO URBAN AREA JOINT POWERS FINANCING AUTHORITY (JPFA) FOR CONSTRUCTION OF THE CHICO URBAN AREA NITRATE COMPLIANCE PROJECT (PROJECT); SRF LOAN PROJECT NO. C-06-4111-220

### WHEREAS:

1. The State Water Resources Control Board (State Water Board), on February 16, 1995, adopted the "*Policy for Implementing the State Revolving Fund for Construction of Wastewater Treatment Facilities*," and amended it on July 17, 2007;
2. The State Water Board, on September 4, 2007, adopted the State Fiscal Year 2007/2008 SRF Loan Program Priority List which included the JPFA's Project in Priority Class A;
3. The Division of Financial Assistance (Division) has approved the Facility Plan for the JPFA's Project on September 21, 2007, and the JPFA agreed with the approval on September 24, 2007;
4. The JPFA will fund the Project's construction through redevelopment tax increment revenue collected throughout the Chico Amended and Merged Redevelopment Project Area;
5. On June 21, 2001, Division staff distributed the Environmental Impact Report (EIR) to the following federally designated agencies: US EPA; Army Corps of Engineers; U.S. Fish and Wildlife Service; U.S. Department of Agriculture; Federal Emergency Management Agency; and USDA Natural Resources Conservation Service. The federal review period expired on August 6, 2001. There were no comments or concerns from federal agencies;
6. On October 22, 2002, the State Historic Preservation Officer concurred with the Division's finding that no historic properties will be affected by the Project. Monitoring by an archaeologist approved by the Mechoopda Tribe will be required in designated areas; and
7. Division staff compared the applicant's information to published Air Quality Standards to determine whether a conformity determination is required. No conformity determination is necessary. Therefore, Division staff submitted its analysis to USEPA for review and comment. No comments were received from USEPA on the staff analysis of air quality impacts.
8. The County certified an Environmental Impact Report (State Clearinghouse No. 1999102080) for the proposed Project which has been reviewed and considered, and it has been determined that:
  - (a) Changes or alterations have been required or incorporated into the proposed Project which avoid or reduce to less than significant levels potentially significant environmental effects identified in the EIR with respect to: (i) impacts to water quality which will be mitigated by diverting runoff away from construction areas, retaining sediment onsite by proper use of silt fences, and stabilizing disturbed soil areas using hydro-mulch or other appropriate methods; (ii) impacts to biological resources which will be mitigated by conducting annual raptor surveys prior to construction activities during spring or early summer; and (iii) impacts to air quality which will be mitigated by

# DRAFT

implementing standard dust suppression measures and utilizing Best Available Control Technology for all diesel-fueled construction equipment.

- (b) With respect to other potentially significant environmental impacts identified in the environmental document, appropriate changes or alterations are not within the responsibility and jurisdiction of the State Water Board. Such other changes or alterations have been adopted or should be adopted by other agencies.
- (c) Project alternatives have been considered, and it has been concluded that the proposed Project is the environmentally superior alternative.
- (d) Copies of the Draft and Final EIRs are available for review at the State Water Resources Control Board, 1001 I Street, 16th Floor, Sacramento, California, 95814, during normal business hours.

- 9. In November 2006, Division staff reassessed environmental conditions in the proposed Project area because the EIR is now more than five years old, and determined there are no new adverse impacts expected to occur in relation to water quality, special status species or habitat, cultural resources, additional impacts to air quality, or growth inducement.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

- 1. Approves a SRF Preliminary Loan Commitment of \$38 million for the JPFA's Project, with a repayment period of 20 years, and the first repayment due one year after completion of construction of the entire Project;
- 2. Includes a condition that this SRF Preliminary Loan Commitment will expire if the JPFA does not sign the SRF Loan Agreement by June 1, 2008. The Division has the discretion to approve up to a 90-day extension for good cause, without further action by the State Water Board.
- 3. Directs the Division to allocate \$38 million consistent with the construction schedule and availability of funds.
- 4. Authorizes the Deputy Director of the Division to reduce the amount of the SRF preliminary loan commitment and/or demand immediate repayment of received SRF loan amount including incurred interest, if the JPFA does not continue to make progress on Project construction or delays construction without prior approval by the Division.

## CERTIFICATION

The undersigned, Acting Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on December 4, 2007.

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Jeanine Townsend  
Acting Clerk to the Board